

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

KANNAN NAGARAJAN,

Plaintiff,

v.

PETRIE CONSTRUCTION LLC, and 5366
LOGISTICS LEOPARDO MPA SDVOSB JV
LLC,

Defendants.

Case No. 1:24-cv-00897-UA-JEP

DENIAL OF ENTRY OF DEFAULT

This matter comes before the Clerk of Court to consider Plaintiff's request for entry of default, Doc. 9.

A clerk of court must enter a default judgment upon request but only if (1) the complaint is for a sum certain or a computable sum, (2) the defendant has not answered or moved to dismiss, (3) the defendant is not a minor or an incompetent person, and (4) the plaintiff's request is accompanied by an affidavit showing the amount due and establishing the failure to plead or otherwise defend. *See* Fed. R. Civ. P. 55(a). All other requests for default must be made by motion to the court. *See id.* R. 55(b).

The Plaintiff's request must be denied for several reasons. By Order dated December 16, 2024, Doc. 14, the Court granted the Defendants' motion to extend their time to answer, Doc. 8, to December 26, 2024. As such, the time for the Defendants to answer or otherwise plead has not yet expired. Although the Plaintiff filed the requested entry of default before the Court granted the extension, the request has been rendered premature by the Court's Order. Moreover, the complaint,

Doc. 1, is not for a sum certain or a sum that is readily computable. Rather, the complaint appears to seek declarative or injunctive relief or unspecified “monetary relief.” Doc. 1, pp. 6-7. Finally, the request for default is not accompanied by the affidavit required by Rule 55. The Clerk notes that a motion for default judgment, Doc. 10, is pending briefing and will be referred to the Court for consideration.

Accordingly, the Plaintiff’s request for entry of default judgment, Doc. 9, is DENIED this 16th day of December, 2024.

/s/ Lawrence H. Cunningham

LAWRENCE H. CUNNINGHAM
Clerk of Court

Greensboro, North Carolina